

REMARKS

Claims 1 to 5, 7 to 24 are pending in this application. Claims 1, 12 and 22 are the independent claims. Favorable reconsideration and further examination are respectfully requested.

Initially, Applicants thank the Examiner for conducting an interview on June 11, 2008. Applicants discussed this amendment, but no agreement was reached between the Examiner and the Applicants on the claims.

Claims 1, 4, 5, 7, 8, 12, 15, 16 and 18 were rejected under 35 U.S.C. § 102(e) as being anticipated by Le Gouriellec et al. (U.S. Patent Publication Number 20030112756 hereinafter "Le Gouriellec").

Claim 1 is directed to a method for providing committed access rate (CAR). The method includes classifying each received packet in an IP/Ethernet network into one of a plurality of quality of service (QoS) groups using information in a header of the packet, measuring and checking a traffic rate profile of the received packet against a corresponding service level agreement (SLA), marking the packet as one of an in profile packet and an out of profile packet and performing packet buffer memory reservation to guarantee memory space for in profile CAR packets. A CAR packet is an in profile packet if the CAR packet is within the corresponding SLA so that the CAR packet receives congestion-free service and wherein a CAR packet is marked as an out of profile packet if the CAR packet exceeds the SLA and is provided with best effort service.

The applied art is not understood to disclose or to suggest the foregoing features of claim 1. In particular, Le Gouriellec does not disclose or suggest that a CAR packet is marked as an out of profile packet if the CAR packet exceeds the SLA and is provided with best effort service.

The Examiner has likened dropping packets to providing best effort of service (see, page 3, 13 and 14 of the Office Action). Applicants respectfully submit that claim terms are interpreted as broadly as reasonably allowed and the words of a claim must be given their plain meaning unless the plain meaning is inconsistent with the specification (In re American Academy of Science Tech Center, 367 F.3d 1359, 1369, 70 USPQ2d 1827, 1834 (Fed. Cir. 2004), In re Zletz, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989) and MPEP §2111.01). "[T]he ordinary and customary meaning of a claim term is the meaning that the term would have to a person of ordinary skill in the art in question at the time of the invention, i.e., as of the effective filing date of the patent application." Phillips v. AWH Corp., 415 F.3d 1303, 1313, 75 USPQ 2d 1321, 1326 (Fed. Cir. 2005) (en banc). Applicants respectfully submit that a person of ordinary skill in the art reasonably understands that a best effort service does not mean arbitrarily dropping packets without first attempting to deliver them. Therefore, best effort service and arbitrarily dropping packets cannot be substituted one for another.

Moreover, Applicants respectfully submit that an "applicant is entitled to be his or her own lexicographer" (see MPEP §2111.01 Part IV and Toro Co. v. White Consolidated Industries Inc., 199 F.3d 1295, 1301 (Fed. Cir. 1999)). Moreover, the "specification should also be relied on for more than just explicit lexicography or clear disavowal of claim scope to determine the meaning of a claim term when applicant acts as his or her own lexicographer; the meaning of a

particular claim term may be defined by implication, that is, according to the usage of the term in the context in the specification (See MPEP §2111.01 Part IV and Phillips v. AWH Corp., 415 F.3d 1303 (Fed. Cir. 2005) (en banc)). Applicants have clearly distinguished dropped packets from best effort service by using these two terms separately in describing the treatment of packets. Therefore, Applicants respectfully submit that the cited art does not teach that a CAR packet is marked as an out of profile packet if the CAR packet exceeds the SLA and is provided with best effort service as recited in claim 1. Applicants respectfully request that the art rejection be withdrawn.

Claims 12 and 22 have corresponding features to claim 1. Applicants submit that the Le Gouriellec reference should also be withdrawn with respect to claims 12 and 22 for at least the same reasons as claim 1.

For at least the foregoing reasons, Applicants request withdrawal of the art rejection.

Applicants submit that all dependent claims depend on allowable independent claims.

It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for withdrawing the prior art cited with regards to any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

Applicants' attorney can be reached by telephone at (781) 401-9988 ext. 123.

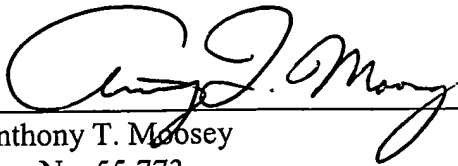
Applicants: Chien-Hsin Lee et al.
Serial No. : 10/675,009
Filed : September 30, 2003
Page : 5 of 5

Attorney's Docket No.: INTEL-047PUS
Intel Docket No. P16860

No fee is believed to be due for this Response; however, if any fees are due, please apply such fees to Deposit Account No. 50-0845 referencing Attorney Docket: INTEL-047PUS.

Respectfully submitted,

Date: 13 June 2008



Anthony T. Moosey
Reg. No. 55,773

Attorneys for Intel Corporation
Daly, Crowley, Mofford & Durkee, LLP
354A Turnpike Street - Suite 301A
Canton, MA 02021-2714
Telephone: (781) 401-9988 ext. 123
Facsimile: (781) 401-9966